



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 25.04.2022

DELIVERED ON : 02.06.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY
W.P. (MD)Nos.18091, 18322, 18475 of 2015
and
M.P. (MD)Nos.1,1,1 of 2015

W.P. (MD)No.18091 of 2015

The Management,
Forest Ranger,
Forest Range Division,
Madurai at Arasanur,
Thirumanjolai - 630 056,
Sivagangai District.

... Petitioner

vs

1. The presiding Officer,
Labour Court, Madurai.

2. P.Seeniammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned award passed by the first respondent Presiding Officer, Labour Court, Madurai in I.D.No.49 of 2008, dated 05.07.2013 and to quash the same.

W.P. (MD)No.18322 of 2015

The Management,
Forest Ranger,
Forest Range Division,
Madurai at Arasanur,
Thirumanjolai - 630 056,
Sivagangai District.

... Petitioner

vs

1. The presiding Officer,
Labour Court, Madurai.

2. T.M.Alagammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned award passed by the first respondent Presiding Officer, Labour Court, Madurai in I.D.No.50 of 2008, dated 05.07.2013 and to quash the same.



W.P. (MD)No.18475 of 2015

The Management,
Forest Ranger,
Forest Range Division,
Madurai at Arasanur,
Thirumanjolai - 630 056,
Sivagangai District.

... Petitioner

vs

1. The presiding Officer,
Labour Court, Madurai.

2. P.Rakkammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned award passed by the first respondent Presiding Officer, Labour Court, Madurai in I.D.No.51 of 2008, dated 05.07.2013 and to quash the same.

(In all cases)

For Petitioner : Mr.P.Thilak Kumar
Government Pleader
Assisted by Mrs.D.Farjana Goushia
Special Government Pleader

For Respondents : Labour Court for R1
No appearance for R2

COMMON O R D E R

These three Writ Petitions are filed challenging the impugned order dated 05.07.2013 in I.D.Nos.49, 50 & 51 of 2008.

2. The brief facts of the case in W.P.(MD)No.18091 of 2015 are that the writ petitioner is not a company as defined under the Industrial Disputes Act and it is only a Forest Extension Centre attached to the State Government Forest Department. The petitioner's centre had been engaging in creating interest among the farmers, common people and school children in tree planting training, production and supply of seedlings at free cost. No articles had been sold with profit motives and hence it will not come under the definition as stated in the Industrial Dispute Act. The petitioner Department had been engaging only petty contractors for all the works. The second respondent herein had absented herself for four months from August 2007 to November 2007 and came for work after 21 days in December 2007. Thereafter, the second respondent absented herself from January 2008. The second respondent frequently absented from duty, which adversely affects the work and she was not given any work further. The second respondent was not a permanent employee and she was engaged as daily wage coolie and no appointment order was issued to her. The second



respondent cannot claim permanent status and the benefits of G.O.No.22. The second respondent had approached the first respondent and raised a dispute under Section 2A in I.D.No.49 of 2008 seeking the relief of reinstatement with continuity of service, backwages and other attendant benefits. The case of the second respondent is that she was working in the petitioner Department from 1995 and had been continuously worked for more than 240 days in a year. On 01.01.2008 the petitioner Department refused to allow the petitioner to work and orally terminated. The Labour Court has held that no evidence was adduced on the side of the petitioner's Department. The Labour Court has set the petitioner's Department as ex-parte and passed an order by erroneously applying G.O.No.22 and allowed the I.D.No.49 of 2008. Aggrieved over the same, the petitioner's Department has filed this writ petition.

3. The respondents have not filed any counter affidavit.

4. Heard Mr.P.Thilak Kumar, learned Government Pleader appearing for the petitioner and there is no appearance for the second respondent.

5. The learned Government Pleader has submitted that the writ petitioner is not a company as defined under the Industrial Disputes Act and it is only a Forest Extension Centre attached to the Forest Department. The second respondent was not issued with any appointment order and the second respondent was not a permanent employee. It is seen from the records that the second respondent has filed a writ petition in W.P.(MD)No.3482 of 2015 with a prayer to implement the award and the said case was disposed on 01.03.2018.

6. The Labour Court has passed an ex-parte order but the petitioner / department has filed counter affidavit. It is not the case of the petitioner that the second respondent is a part time employee, but is a regular employee receiving daily wages. The second respondent being a daily wage employee, absented from August 2007 to November 2007 and thereafter from December 2007 she was not reported to the duty. Based on the unauthorized absence, the petitioner Management has not allowed the second respondent to further continue in the said job. The Labour Court has held that the disciplinary proceeding was not initiated for unauthorized absence and therefore the employee is entitled to reinstatement. This alone cannot be a criteria to grant reinstatement into service. Since the second respondent was not considered as a regular employee by the petitioner Management and the Service Rules are not applicable to the daily wage employees, therefore, the petitioner Management has not initiated any disciplinary proceedings. Unless there are clear terms and conditions for an appointment, the second respondent is



not entitled to benefits applicable to regular employee. The benefit of applicability of Service Rules also is not applicable to the petitioner.

WEB COPY

7. Therefore, this Court is of the considered opinion that the impugned order is liable to interfere. However, the petitioner is a Government Department and the second respondent was working in the daily wage category. If the petitioner claims any work then the petitioner may grant the said work irrespective of whether the second respondent is a daily wage employee or NMR or permanent whatever nomenclature the petitioner Department decided to do so. However, the second respondent is not entitled to any continuity of service and the second respondent shall be taken as fresh entrant.

8. With the above direction, all the Writ Petition are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Jbr

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The presiding Officer,
Labour Court, Madurai.

+1 CC to M/s.SPL.GP (SR-24291[F] dated 03/06/2022)

Pre-delivery Order made in
W.P. (MD) Nos.18091, 18322, 18475 of 2015
02.06.2022

SS/09.06.2022 : 4P/3C